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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,183	10/20/2003	Felix L. Sorkin	1101-170	6671
7590	11/07/2005		EXAMINER BERGERON, ROLAND C	
John S. Egbert Harrison & Egbert 412 Main Street, 7th Floor Houston, TX 77002			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,183

Applicant(s)

SORKIN, FELIX L.

Examiner

Roland Bergeron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 and 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/9/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. Claims 1-20 have been examined.

Claim Objection

2. Claim 4 is objected to because of the following informalities: Claim 4 refers to a first foot. However, there is insufficient antecedent basis for this limit in the claim. Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6 and 8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 and 6-7 of U.S. Patent No. 6,772,571 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other as discussed below:

Claim 1 and 2 corresponds to Claims 1 and 6 of the referenced patent.

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Claim 1 describes a first and second plurality of legs arranged in generally parallel space relationship on one side and other side of said beam. The reference patent describes a plurality of legs members arranged in a generally parallel space relationship with a beam integrally formed with said plurality of leg members and said beam extending transversely across said plurality of leg members. It would be obvious that the plurality of legs would consist of a first and second set of plurality of legs located on one side and other side of said beam.

Claim 1 describes a plate having a first receptacle on one side and a second receptacle on the opposite side for receiving a portion of its plurality of legs.

The reference patent describes a plate having a clip means for fixedly receiving said first foot and second foot formed at the end of the first leg and second leg respectively. It would be obvious that a clip means would be a slidable plate having a receptacle on either side to receiving the foot of the respective first and second set plurality of legs located on one side and other side of said beam. Claim 3 corresponds to Claim 2 of the referenced patent. Claim 4 corresponds to Claims 1 and 6 of the referenced patent. Claim 5 corresponds to Claim 7 of the referenced patent.

Claim 6 corresponds to Claims 1 and 6 of the referenced patent.

5. Claims 7, 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 6,772,571 B1 in view of U.S. Patent 4,756,641 to Hartzheim.

Sorkin discloses the basic structure of the bolster in his claims. However, Sorkin does not disclose a plate formed of extruded polymeric material.

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Hartzheim shows in figure 7 and discusses in the specification (column 3, lines 10-15 and column 5, lines 29-35) a rebar chair structure with a plate made of polymeric material or high density molded plastic. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made would be motivated to modify the claimed bolster of Sorkin per the disclosure of Hartzheim to have a structure made of polymeric material to resist corrosion while being relatively inexpensive to make.

Allowable Subject Matter

6. Regarding claims 9-12, the prior art does not disclose and it does not appear obvious to modify the prior art to disclose, a bolster having the limitations of claim 1, further comprising a third receptacle formed between a C-shaped side of the first receptacle and a C-shaped side of the second receptacle for receiving a plurality of supports where said C-shaped sides having a diameter greater than the height of portions connecting the leg members.

7. Regarding claims 14-20, the prior art does not disclose and it does not appear obvious to modify the prior art to disclose, wherein the attachment, a third receptacle, centrally located between the first and second receptacle, having a first and second elongated member along the length of the plate with a interior diameter suitable for receiving a beam bolster foot.

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Conclusion

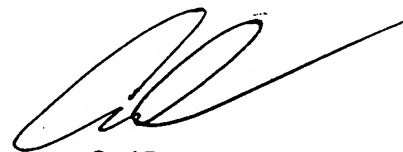
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Bergeron whose telephone number is (571) 272-2943. The examiner can normally be reached on 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RCB

10/27/05



Carl D. Friedman
Supervisory Patent Examiner
Group 3600